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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/810,324

03/16/2001

Steven M. Schein

ST- 028 Cont 2

9059

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04/15/2009

ROPES & GRAY LLP

PATENT DOCKETING 39/361

1211 AVENUE OF THE AMERICAS

NEW YORK, NY 10036-8704

EXAMINER

PARRA, OMAR S

ART UNIT

PAPER NUMBER

2421

MAIL DATE

DELIVERY MODE

04/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/810,324	SCHEIN ET AL.	
	Examiner	Art Unit	
	OMAR PARRA	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 01/21/2009 have been fully considered but they are not persuasive.

In response to applicant's arguments:

The applicant argues that *"Matthews, Shoff or Herz do not show or suggest searching a public network for data related to a program corresponding to the television program title selected by the user"*, Remarks, pages 12 and 13. To this matter, the examiner respectfully disagrees.

Matthews and Shoff teach providing users with television content as well as hypertext links for searching on the Internet and downloading supplemental content related to a selected title (Matthews: [0069]-[0072]). Applicant's argument is based on the fact that the Matthews and Shoff use hyperlinks that are provided from the headend (Remarks, page 12). However, this does not equate to Matthews and Shoff not being able to search the Internet for data related to a program corresponding to the television program title. Matthews searches on the Internet for the related content, but using the provided hyperlinks that indicate where the content can be found. In other words, Matthews searches for or looks for the server (out of multiple servers) on the Internet that contains the related data and downloads it for presentation. In other words, the client has to find the content recipient, request and download the supplemental content. The examiner respectfully believes that there is nothing recited on the claims that precludes the client receivers to perform the search of the supplemental content using

Art Unit: 2421

the hyperlinks provided with the EPG data. Therefore, the examiner respectfully believes that the art of records still cover applicant's invention as claimed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1-4, 15-22 and 33-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (hereinafter 'Matthews', Pub. No. 2004/0139465) in view of Shoff et al. (hereinafter 'Shoff', Pub. No. 2005/0015815).

Regarding claims 1, 9, 38 and 39, Matthews teaches an interactive guide having a display screen comprising:

a database for storing television schedule information including television program titles (**40, 46, 54 and 86, Fig. 3**);

a display controller (**Processor 92, Fig.4**) electrically coupled to the database for displaying some of the television schedule information including television program titles on the display screen (**[0063] lines 1-7**);

an input device (**[0066] lines 5-8**) that is configured to:

receive a first user selection of a television program title displayed on the display (**[0066] lines 1-5 or selection of 'Seinfeld', Fig. 5**); and

receive a second user selection requesting that data available on a public network and related to the selected television program title be displayed (**[0069]-[0072], where the user clicks on a hyperlink to get additional information related to a title**);

a processor (**processor 92, which controls all the elements of the client**) configured to search the public network to identify data that is related to a program (**when a hyperlink is clicked, the client, through the modem and processor, contact the ISP server to retrieve and present the related data; [0059]-[0060]; [0072]**) corresponding to the selected television program title (**When a click on a hyperlink is performed, the supplemental content requested is related to that single program title, [0054]; [0060]**) and that includes at least one item available for purchase(**[0054]; where available merchandise or memorabilia is present**) a communication device for receiving the identified data related to the selected television program title (**100, Fig. 4; [0061]**); and

a controller for displaying, in direct response to the second user selection, the received data related to the program corresponding to the selected television program title (**processor 92, Fig. 4, controls all the applications needed to render content from the ISP provider, EPG server, etc; [0063]**).

On the other hand, although Matthews teaches a communication device for receiving the identified data related to the selected television program title (**100, Fig. 4; [0061]**), Matthews does not explicitly teach downloading the data identified in the

search and wherein the displayed data comprises a selectable option for purchasing the at least one item available for purchase.

However, in an analogous art, Shoff teaches a system that is capable of retrieving additional content related to a single title from internet when requested ([0016]-[0019]; [0050]-[0051]; [0068]). Shoff teaches that the additional content is downloaded onto the client device along with instructions or layouts on how to be displayed on the screen (at least at [0019]). The additional content can be items related to the program that can be navigated through a user interface (buttons 232-236, Fig. 8c; [0074]-[0076]; [0079]-[0080]), which gives the user a selectable option for purchasing the item (Order button 237).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Matthews' invention with the selectable option for purchasing as taught by Shoff for the benefit of not having the user to call or go to a store to buy the presented additional content.

Regarding claims 2 and 20, the combined teachings of Matthews and Shoff teach an interactive program guide wherein the database resides on one or more remote file servers accessible through a communication link **(Matthews: 40, 46, 54 and 86, Fig. 3 connected to user through 74 and 82).**

Regarding claims 3 and 21, the combined teachings of Matthews and Shoff teach an interactive program guide wherein the communication link comprises the Internet **(Matthews: [0059]; [0072])**.

Regarding claims 4 and 22, the combined teachings of Matthews and Shoff teach an interactive program guide wherein the identified data comprises an advertisement **(Matthews: [0054])**.

Regarding claims 15 and 33, the combined teachings of Matthews and Shoff teach an interactive program guide wherein:

the processor **(Matthews: processor 92, Fig. 4)** is further configured to:

display preview programming for a future-scheduled television program **([0063], where 'The Single Guy' is displayed on Fig. 5, which is preview programming to 'Seinfeld' which is a future-scheduled television program)**;

identify a plurality of sources of information having data related to the future-scheduled television program **([0077])**;

select an identified source of information having data related to the future-scheduled television program **(Any of the shown hyperlinks can be selected individually, [0069])**;

the communication device is further configured to establishing a link to the identified source of information **(100, Fig. 4; [0061])**; and

the controller is further configured to display data from the linked source of information on the screen (**processor 92, Fig. 4, controls all the applications needed to render content from the ISP provider, EPG server, etc; [0063]**).

Regarding claims 16 and 35, the combined teachings of Matthews and Shoff teach wherein the data related to the future-scheduled television program comprises one or more of an advertisement, a video preview, and textual information (**[0054]; [0067] or Entire Fig. 5**).

Regarding claims 17 and 36, the combined teachings of Matthews and Shoff teach wherein the processor is further configured to store and display advertisement data (**[0054]; [0056] lines 1-4 and 9-12**).

Regarding claims 18, 34 and 37, the combined teachings of Matthews and Shoff teach wherein the identified data comprises one or more of television program actors, actresses, themes, other broadcast times, other broadcast sources, and associated available products (**[0054]; Actor -inherently, actress also-; associated available products -'trekiecollectables.html', Fig. 2**).

4. Claims **5-14 and 23-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III et al. (hereinafter 'Matthews', Pub. No. 2004/0139465) in view of Shoff et al. (hereinafter 'Shoff', Pub. No. 2005/0015815) and further in view of Herz et al. (hereinafter 'Herz', Patent No. 5,758,257).

Regarding claims 5 and 23, Matthews and Shoff teach all the limitations of the claims they depend on. On the other hand, they do not explicitly teach wherein the processor is further configured to:

monitor and store a plurality of user selections of television programs; learn a user preference based on the plurality of user selections of television programs; and activate the program guide based on the user.

However, in an analogous art, Herz teaches monitoring and storing the user selections of televisions programs (**col.14, lines 3-7; col. 25 lines 37-41**) to learn a user preference based on plurality of user selections of television programs (**col. 6 lines 50-57**) and activating the program guide based on the user preference (**col.23 lines 1-7**).

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to have modified Matthews and Shoff's invention with the monitoring, storing of user program selections for a further user customization of the program guide and content as taught by Herz for the benefit of presenting content or merchandise that fits the user and increase the chance of having the user consuming the content or purchasing the merchandise.

Regarding claims 6 and 24, wherein the processor is further configured to store the user preference responsive to a user input (**Herz, Co1.22, lines 19-65**).

Regarding claims 7 and 25, wherein the user preference comprises a television program (**Herz, col.25 lines 16-18**).

Regarding claims 8 and 26, wherein the user preference comprises a theme for a plurality of television programs (**Herz, Col. 4, lines 32-34**).

Regarding claims 9 and 27, wherein the processor is further configured to remind a user to view a preferred television program (**Herz: Col.23, lines 1-7**).

Regarding claims 10 and 28 , wherein the processor is further configured to record_a preferred television program (**a record is kept of all movies or shows watched by all customers, Col. 1, lines 50-55 and Col.38, lines 42-43**).

Regarding claims 11 and 29, wherein the processor is further configured to download a copy of a preferred television program to a digital storage medium (**memory; Co1.51, lines 40-52**).

Regarding claims 12 and 30, wherein the processor is further configured to:
search the television schedule information (**Herz, Col. 5, lines 54-58**);
identify television programs matching the theme for the plurality of television programs (**Herz, Col. 6, lines 1-35**); and

record the television programs matching the theme for the plurality of television programs (**Herz, Col. 25, lines 15-30**).

Regarding claims 13 and 31, wherein the processor is further configured to:
search the television schedule information (**Herz, Col. 5, lines 54-58**);
identify television programs matching the theme for the plurality of television programs (**Herz, Col. 6, lines 1-35**); and

download a copy of the television programs matching the theme for the plurality of television programs to a digital storage medium (**Herz, Col. 25, lines 15-30**).

Regarding claims 14 and 32, wherein processor is further configured to adapt the television schedule information displayed on the screen based on the user preference (**Herz, Col.45, line 14-38**).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2421

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

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